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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/621,722	07/24/2000	K Scott Kammerer	12328	5223

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12/05/2003

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EXAMINER

COLE, LAURA C

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 12/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/621,722

Applicant(s)

KAMMERER ET AL.

Examiner

Laura C Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Goldman, USPN Re. 16,869.

Goldman discloses a manicuring instrument that comprises a handle defining a longitudinal axis (1) and a cleaning head end (near the ferrule (6)) and a grasping end (1), the cleaning head end defining a securing region ((6), (7), (8)), a cleaning tip formed of a plurality of compressed fibers (fibers are compressed by ferrule (6)) that are rigid ((3); Page 1 Lines 49-56), the cleaning head secured to the handle at the cleaning head end (Figures 1-4), and the handle and tip defining a longitudinal axis (Figures 1-4).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman, USPN Re. 16,869.

Goldman discloses the claimed invention except for the bristle material being polyester. It would have been obvious for one of ordinary skill in the art at the time the invention was made to make the bristles from polyester, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of

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its suitability for the intended use as a matter of obvious engineering choice. In re Leshin, 125 USPQ 416.

3. Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman, USPN Re. 16,869 in view of Varma, USPN 6,269,515.

Goldman discloses all elements above except for securing of the cleaning tip within a bore.

Varma discloses an apparatus for cleaning an electrode that comprises a handle that defines a longitudinal axis having a cleaning head and grasping end, wherein the handle is a hollow tubular member defining a central bore (550) and the cleaning tip (510) is formed with dimensions to fit within the bore (Column 3 Lines 20-30). The swab is non-bending (Column 2 Lines 30-35).

It would have been obvious for one of ordinary skill in the art to modify the securing arrangements, including the handle, for the securing structure of Varma so that a ferrule or extra securing band is not required thereby minimizing manufacturing costs and reducing the materials needed for manufacture.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman, USPN Re. 16,869 in view of Kachigian, USPN 5,084,005.

Goldman discloses all previously mentioned elements, however does not disclose an ultrasonic welding process to secure the cleaning tip to the handle.

Kachigian discloses a swab that comprises a handle (Figures 1-3 (21)), a cleaning head (Figures 1-2 (33)), a grasping end (Figures 1-3 (29)), a securing region (Figure 4), and a cleaning tip (Figures 1-4 (32)) formed of a plurality of fibers. Further

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Kachigian discloses (Column 5, Lines 41-48) that a swabbing tip may be secured to a rigid handle structure by ultrasonic welding.

It would have been obvious to one of ordinary skill in the art to use the method of securement by using ultrasonic welding as Kachigian teaches in order to keep debris, dust particles, or bacteria from the cleaning tip which can be disruptive in electro-mechanical components.

5. Claims 8, 9, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman, USPN Re. 16,869 in view of Bozarjian, USPN 6,187,104.

Goldman discloses previously mentioned elements but does not disclose a tether.

Bozarjian discloses a cleaning implement and method that has a tether secured to the handle-grasping end (Figures 1, 2, and 4 (14), Column 3, Lines 7-13, and Column 3, Lines 60-65) and the tether is secured through a handle bore (Figure 1 (23)). The tether may be removable (Column 3, Lines 60-65) or permanent (Column 5, Lines 27-29.)

It would have been obvious for one of ordinary skill in the art to apply the teachings of Bozarjian in including a removable or permanent tether to the swab so that the swab is always nearby or on hand when cleaning.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman, USPN Re. 16,869 in view of Gradone, USPN 3,712,296.

Goldman discloses all previously mentioned elements, but does not disclose a tether disposed between an external gripping portion and the handle.

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Gradone discloses a swab device that has a handle (Figure 1 (10)), a cleaning head end (Figure 1 (12)), a grasping end (Figure 1 (14)), a securing region (shaded region of Figure 2), and a cleaning tip (Figure 1 (12)). Gradone further discloses a grip portion mounted externally (Figure 1 (16)) on the handle, the grip portion is provided so as to avoid human contact with the handle, which is desired in the medical field (Column 2 Lines 49-52).

It would have been obvious for one of ordinary skill in the art to attach an external grip portion to a handle, as it may be desired to avoid the possibility of transferring dust or human oils when working with electro-mechanical devices in a clean room.

7. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman, USPN Re. 16,869 in view of Gradone, USPN 3,712,296, and in further view of Lisowski, USPN 5,937,473.

Goldman and Gradone disclose all previously mentioned elements, but do not disclose a tether disposed between an external gripping portion and the handle.

Lisowski teaches a tether or "wrist loop" (Figures 1-2 (17)) being disposed between a grip portion and handle.

It would have been obvious to one of ordinary skill in the art to add a tether to the swab devices of Goldman and Gradone so that the swab will always be nearby, hooked, or worn around the wrist.

Applicants Arguments

8. In the response, Paper No. 7, filed 27 October 2003, the Applicant contends that:

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A. Discounting the limitation of pull-truding the fibers, the Goldman patent fails to disclose a cleaning tip that is formed from a plurality of extruded, compressed fibers.

(Page 6 of the response, paragraph 2; Page 7 Paragraph 3.)

B. Goldman in view of Varma, Goldman in view of Kachigan, Goldman in view of Bozarjian, Goldman in view of Gradone, and the rejection of Goldman in view of Gradone and in further view of Lisowski are traversed on the basis that none of these combinations disclose a cleaning tip formed from a plurality of extruded, compressed fibers. (Page 6 of the response paragraph 3 to Page 7 of the response paragraph 2).

Response to Arguments

9. Applicant's arguments A and B filed 27 October 2003 have been fully considered but they are not persuasive.

A. The fibers of Goldman are compressed (by the ferrule (6), see above). The term "extruded" implies that the process of extrusion has been performed to form the fibers and do not differentiate the structure of Goldman from the claimed invention. Whether the fibers are extruded, molded, or otherwise formed there is not a structural difference in the apparatus as claimed and Goldman. MPEP section 2113 recites, "Product-by-Process claims are not limited to the manipulations of the recited steps, only the structure implied by the steps." Goldman discloses a cleaning tip formed from a plurality of compressed fibers that are a portion of "a substantially rigid, elongated cleaning head."

B. Again, as stated in the response to argument A, MPEP section 2113 recites, "Product-by-Process claims are not limited to the manipulations of the recited steps,

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only the structure implied by the steps.” Goldman discloses a cleaning tip formed from a plurality of compressed fibers that are a portion of “a substantially rigid, elongated cleaning head.”

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C Cole whose telephone number is (703) 305-7279. The examiner can normally be reached on Monday-Thursday, 7am - 4:30pm, alternating Fridays. After December 16th, the Examiner's office will be located at the new USPTO site in Alexandria, Virginia. After this date, you may reach Examiner Laura Cole by phone at 571-272-1272 or by fax at 571-273-1272.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on (703) 308-2920 (or after December 17th may be reached at 571-272-1281). The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

LCC
LCC

18 November 2003

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